

### **REMARKS**

Reconsideration of this application is respectfully requested. Currently, claims 19, 20, 30, 31 and 33 remain pending in the application.

#### **Information Disclosure Statement**

Applicants appreciate and thank the Examiner for considering U.S. Patent No. 6,117,432.

Applicants respectfully request the Examiner to consider the U.S. Patent Documents in Applicants' previously-filed Information Disclosure Statement and accompanying PTO/SB/08A submitted on April 28, 2005. In addition, Applicants request that the Examiner consider Application No. 08/946,114, which was submitted on June 10, 2005. A copy of the date-stamped postcard indicating receipt of Application No. 08/946,114 on June 10, 2005 is attached herewith as **Exhibit A**.

#### **Rejections under 35 U.S.C. § 102(b)**

Claims 19, 20, 30, 31 and 33 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 3,678,149 ("the '149 patent"). Applicants respectfully traverse this rejection.

At the outset, Applicants note that the '149 patent was previously cited in a § 102(b) rejection in an Office Action mailed on January 23, 2003 and again in an Office Action mailed on July 7, 2003. However, in an Office Action mailed on May 25, 2004, the Examiner withdrew the § 102(b) rejection over the '149 patent and stated, "[i]n view of Applicants amendments and remarks, particularly Applicant's argument that the mannatin oleates of the prior art are not polyethoxylated, the previous rejections under 35 U.S.C. § 102(b) have been withdrawn."

Applicants respectfully incorporate the arguments previously made in view of the '149 patent herein and add the following comments.

In the instant Office Action, the Examiner recites the same § 102(b) rejection as previously stated in the January 23, 2003 Office Action but adds, "[t]he reference further teaches that the composition may be polyethoxylated (column 4, line 25), modified with ethylene oxide (column 4, line 48), or ethoxylated (column 4, line 53)."

However, a review of the passages cited by the Examiner does not reveal any teaching that the composition may be polyethoxylated, modified with ethylene oxide or ethoxylated. For example, column 4, lines 21-26 of the '149 patent recite:

Actually, the rate of release and assimilation is such that the mammal need only be given a single injection (or a few injections), in contrast to the 20 or so injections now being widely used. The technique by which this revolutionary change is made possible will be discussed in greater detail hereinbelow.

Column 4, lines 45-53 of the '149 patent recite:

On the other hand, immunity may be achieved by the use of live organisms, usually attenuated. This creates in turn the possibility of overwhelming the host with infection. When, however, these live organisms are given as a water-in-oil emulsion for slow release, it is possible to produce immunity without overwhelming the defenses of the mammal. In essence, this is how most immunity is achieved, by natural exposure to small doses of live organisms which may produce subclinical disease and immunity.

In view of these passages and Applicants arguments already made of record, Applicants respectfully submit that the '149 patent does not teach the claimed invention. Accordingly, Applicants respectfully request the Examiner to withdraw the § 102(b) rejection over the '149 patent.

**CONCLUSION**

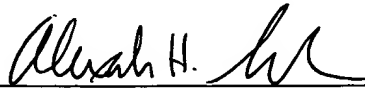
Applicants respectfully request consideration of the above remarks. In view of the above remarks, early notification of a favorable consideration is respectfully requested.

A check is enclosed in the amount of \$120.00, which covers the one-month extension of time fee. The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-0206.

Respectfully submitted,

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PATENT



PROVISIONAL  
UTILITY



DESIGN  
PCT

Application No.: 09/698,121  
Client/Matter No.: 58771.000012  
Inventor(s): Jerome AUCOUTURIER et al.

Date: June 10, 2005  
Client: L'Air Liquide  
Atty/Sec: RMS:JLP:AHS/sac

Title: NOVEL VACCINE COMPOSITION AND USE OF SURFACTANTS AS  
ADJUVANTS OF IMMUNITY

The following has been received in the U.S. Patent and Trademark Office on the date  
stamped hereon.



SUPPLEMENTAL SUBMISSION UNDER 37 C.F.R. § 1.312  
FORM PTO/SB/08A  
US PATENT APPLICATION NO. 08/946,114, "NEW VACCINE COMPOSITION  
COMPRISING, AS ADJUVANT, A SYMPATHOMIMETIC COMPOUND"  
RECEIPT POSTCARD (GREEN)

